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Via Federal Express

Honorable F. Dennis Saylor
United States District Court
Donohue Federal Building
595 Main Street, 5th Floor
Worcester, MA 01608

Re: ***Bacou-Dalloz USA Safety, Inc. and Howard Leight Industries, LLC v. Cabot Safety Intermediate Corp. and Aearo Company.***
Civil Action No.: 04-40049-FDS
Our File No.: CAO-0580-L

Dear Judge Saylor:

Currently pending before you in the above referenced action is the Defendants' Motion to Transfer this case to the Southern District of Indiana, Indianapolis Division, on the grounds that there is a first filed action currently pending in that district. The Motion to Transfer has been fully briefed. This letter is written to inform the Court of recent events in the Indiana action.

By way of background, Bacou-Dalloz USA Safety, Inc. and Howard Leight Industries, LLC (hereinafter collectively referred to as "Leight") filed a motion in Indiana on May 28, 2004 to stay the Indiana action pending this Court's resolution of Defendant's Motion to Transfer. (See Exh. 1, Leight's Memorandum of Law in Support of Motion to Stay (w/o exhibits)). Cabot Safety Intermediate Corp. and Aearo Company (hereinafter collectively referred to as "Cabot") opposed Leight's motion to stay on the grounds that, *inter alia*, the first filed motion should proceed unhindered because there are no "special circumstances" to justify Leight's bid for venue in Massachusetts. Further, Cabot cross-moved the Indiana district court to enjoin Leight from proceeding with this second filed action. (See Exh. 2, Cabot's Opposition to Leight's Motion to Stay and Cross-Motion to Enjoin (w/o exhibits)). (Leight's Reply Brief in support of its Motion to Stay is attached hereto as Exh. 3).

Earlier today, the Indiana district court denied Leight's Motion to Stay the Indiana action and entered Cabot's proposed Case Management Plan. (See

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Worcester, MA

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U.S. DISTRICT COURT
Worcester, MA
June 30, 2004



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Exh. Nos. 4 and 5).¹ Accordingly, the parties must proceed with the Indiana action forthwith. Given that the claims raised in Leight's Complaint for declaratory judgment are *identical* to its counterclaims filed in the Indiana action (Leight's Answer and Counterclaims in the Indiana action are attached hereto as Exh. 6), there will be completely overlapping litigation proceeding in both the Southern District of Indiana and the District of Massachusetts if this action is not dismissed or transferred.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. C. Ryan", is positioned above the printed name "Andrew C. Ryan".

Andrew C. Ryan

ACR/cm
Enclosure

Cc: Charles Hieken, Esq.
David Campbell, Esq.

¹ The Indiana district court did not grant Cabot's motion for an injunction. (See Exhibit 4).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing letter to Honorable F. Dennis Saylor
has been served via overnight delivery this 30th day of June, 2004 to the following:

Charles Hieken, Esq.
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Andrew C. Ryan